

AMENDED IN SENATE APRIL 25, 2005

SENATE BILL

No. 703

Introduced by Senator Machado

February 22, 2005

An act to ~~amend Section 2610.6 of~~ *add Section 2610.65 to the Revenue and Taxation Code, relating to taxation.*

LEGISLATIVE COUNSEL'S DIGEST

SB 703, as amended, Machado. Tax liens.

Existing law specifies that every tax on real property is a lien against the property assessed. Existing law authorizes a person to pay the property taxes of another person pursuant to a written or oral authorization. *Existing law provides that a tax lien has priority over all other liens on the property, regardless of when the other liens were created.*

This bill would instead require a person, whom this bill would classify as an assessee, that seeks to authorize another person, whom this bill would classify as a payor, to pay his or her real property taxes to file a document sworn under penalty of perjury with the tax collector containing the authorization, a description of the property on which the payor will pay the taxes, and the payor's name, as specified. This bill would also specify that these taxes are ~~not~~ *a lien in favor of the payor* against the property of the assessee *and that this lien has the same priority as the tax lien that was transferred to the payor.* This bill would also require the tax collector ~~to record a lien against the real property of the payor for the taxes of the assessee,~~ *to issue a receipt to the payor, to authorize a transfer of the tax lien to the payor, and to certify that the payment has been made and the lien has been recorded,* as specified. *This bill would also authorize the tax collector to charge a fee for the cost of implementing the lien transfers.*

By expanding the crime of perjury, this bill would create a state-mandated local program.

~~This bill would also create a state-mandated local program by requiring tax collectors to issue receipts and certifications to payors and to record tax liens.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.~~

~~With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.~~

~~This bill would also create a state-mandated local program by requiring tax collectors to issue receipts and certifications to payors.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for specified reasons.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 2610.65 is added to the Revenue and
- 2 Taxation Code, to read:
- 3 2610.65. (a) If the payor of property taxes files a sworn
- 4 statement from an assessee authorizing the payor to pay the
- 5 property tax of the assessee, the tax collector shall transfer the
- 6 lien for property taxes, interest, and penalties to the payor. The
- 7 authorization statement shall be a document, sworn under
- 8 penalty of perjury, that contains all of the following:
- 9 (1) A statement authorizing the payor to pay property taxes on
- 10 the assessee's real property.
- 11 (2) A description of the real property of the assessee, the taxes
- 12 upon which will be paid by the payor.

1 (3) *The name of the payor.*

2 (b) *Notwithstanding any other provision of law, if a payor*
3 *pays real property taxes, penalties, or interest of an assessee*
4 *under this section, all of the following apply:*

5 (1) *The taxes on the real property of the assessee that will be*
6 *paid by the payor are a lien against that property. This lien shall*
7 *have the same priority as a tax lien described in Section 2192.1*
8 *and shall secure the payment of taxes, penalties, interest, court*
9 *costs, recording fees, and the costs of collection incurred by the*
10 *payor.*

11 (2) *The tax collector of the taxing jurisdiction, or his or her*
12 *authorized representative, shall issue a tax lien transfer to the*
13 *payor describing the payment and shall attach to that tax lien*
14 *transfer document a receipt certifying, either by stamping the*
15 *document with the tax collector's seal of office or by signing the*
16 *document before a notary public, both of the following:*

17 (A) *That the payment so described has been made by the*
18 *payor.*

19 (B) *That a lien exists against the real property of the assessee*
20 *as a result of the payment and that the lien is being transferred to*
21 *the payor.*

22 (c) *Within five working days of the payment of taxes, penalties,*
23 *and interest the tax collector shall provide the payor with the tax*
24 *lien transfer document and shall authorize the payor to record*
25 *the tax lien transfer document against the real property of the*
26 *assessee in the name of the payor in the deed records of each*
27 *county in which the property encumbered by the lien is located. A*
28 *lien required by this subdivision is not enforceable unless it is*
29 *recorded as required by the preceding sentence.*

30 (d) *The tax collector may charge a reasonable fee for the cost*
31 *of implementing this section, not to exceed \$ ____.*

32 (e) *The holder of the lien transferred pursuant to this section*
33 *shall have the same right of sale as described in Section 3691 or*
34 *foreclosure as described in Section 726 of the Civil Code and*
35 *shall provide notice of a sale or foreclosure to interested parties*
36 *described in Section 4675.*

37 SEC. 2. *The Legislature finds and declares that this act*
38 *serves a compelling state interest by accelerating the collection*
39 *of property tax revenues for local governments, reducing the cost*
40 *of collecting those tax revenues, and by providing property*

1 *owners with a lower cost option for paying delinquent property*
2 *taxes to avoid the substantial penalties that attach to property tax*
3 *delinquencies.*

4 ~~SECTION 1. Section 2610.6 of the Revenue and Taxation~~
5 ~~Code is amended to read:~~

6 ~~2610.6. (a) When the tax collector sends a tax bill to any~~
7 ~~person, hereafter “the payor,” respecting property that has been~~
8 ~~assessed to another and who has the power, pursuant to~~
9 ~~subdivision (b), to pay the taxes on behalf of another, hereafter~~
10 ~~“the assessee,” the tax collector shall send to the assessee an~~
11 ~~information copy of the tax bill, except, that the copy shall state~~
12 ~~plainly that the copy is not a bill and that the original bill has~~
13 ~~been sent to the payor for payment.~~

14 ~~(b) An assessee may authorize a payor to pay taxes, and any~~
15 ~~penalties and interest resulting from the nonpayment of these~~
16 ~~taxes, imposed by a taxing jurisdiction on real property, if the~~
17 ~~assessee files with the tax collector of that jurisdiction a~~
18 ~~document, sworn under penalty of perjury, that contains all of the~~
19 ~~following:~~

20 ~~(1) A statement authorizing the payor to pay property taxes on~~
21 ~~the assessee’s real property.~~

22 ~~(2) A description of the real property of the assessee, the taxes~~
23 ~~upon which will be paid by the payor.~~

24 ~~(3) The name of the payor.~~

25 ~~(c) Notwithstanding any other provision of law, if a payor~~
26 ~~pays real property taxes, penalties, or interest of an assessee~~
27 ~~under this section, all of the following apply:~~

28 ~~(1) (A) The taxes on the real property of the assessee that will~~
29 ~~be paid by the payor are not a lien against that property.~~

30 ~~(B) The tax collector shall record a lien against the real~~
31 ~~property of the payor in the deed records of each county in which~~
32 ~~the property encumbered by the lien is located. A lien required~~
33 ~~by this subparagraph is not enforceable unless it is recorded as~~
34 ~~required by the preceding sentence.~~

35 ~~(C) The tax collector shall keep records of all liens excused as~~
36 ~~described in subparagraph (A) and of all liens recorded as~~
37 ~~described in subparagraph (B).~~

38 ~~(2) The tax collector of the taxing jurisdiction, or his or her~~
39 ~~authorized representative, shall issue a receipt to the payor~~
40 ~~describing the payment and shall attach to that receipt a~~

1 ~~document certifying, either by stamping the document with the~~
2 ~~tax collector's seal of office or by signing the document before a~~
3 ~~notary public, both of the following:~~

4 ~~(A) That the payment so described has been made by the~~
5 ~~payor.~~

6 ~~(B) That a lien exists against the real property of the payor as~~
7 ~~a result of the payment.~~

8 ~~SEC. 2. No reimbursement is required by this act pursuant to~~
9 ~~Section 6 of Article XIII B of the California Constitution for~~
10 ~~certain costs that may be incurred by a local agency or school~~
11 ~~district because, in that regard, this act creates a new crime or~~
12 ~~infraction, eliminates a crime or infraction, or changes the~~
13 ~~penalty for a crime or infraction, within the meaning of Section~~
14 ~~17556 of the Government Code, or changes the definition of a~~
15 ~~crime within the meaning of Section 6 of Article XIII B of the~~
16 ~~California Constitution.~~

17 ~~However, if the Commission on State Mandates determines~~
18 ~~that this act contains other costs mandated by the state,~~
19 ~~reimbursement to local agencies and school districts for those~~
20 ~~costs shall be made pursuant to Part 7 (commencing with Section~~
21 ~~17500) of Division 4 of Title 2 of the Government Code.~~